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Attorneys for Plaintiff  
AMERIS BANK d/b/a BALBOA CAPITAL CORPORATION

THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

AMERIS BANK, a Georgia state-  
chartered banking corporation, doing  
business as BALBOA CAPITAL  
CORPORATION,

Plaintiff,

vs.

MONTANTE PLASTIC SURGERY &  
AESTHETICS, LLC, a Virginia Limited  
Liability Company; STEVEN  
MONTANTE, an individual; SHELLY  
MONTANTE, an individual,

Defendants.

Case No.:

**PLAINTIFF AMERIS BANK D/B/A/  
BALBOA CAPITAL  
CORPORATION'S COMPLAINT  
FOR:**

- 1. BREACH OF EQUIPMENT  
FINANCING AGREEMENT NO.  
1**
- 2. BREACH OF PERSONAL  
GUARANTY NO. 1**
- 3. BREACH OF EQUIPMENT  
FINANCING AGREEMENT NO.  
2**
- 4. BREACH OF PERSONAL  
GURANTY NO. 2**

1 Plaintiff Ameris Bank, a Georgia state-chartered banking corporation doing  
2 business as Balboa Capital Corporation, (“Balboa” or “Plaintiff”), alleges as  
3 follows:

4 **PARTIES AND JURISDICTION**

5 1. Plaintiff Ameris Bank d/b/a Balboa Capital Corporation (“Balboa” or  
6 “Plaintiff”) is, and at all times relevant to this action was, a Georgia state-chartered  
7 banking corporation with Balboa Capital Corporation as one of its divisions, which  
8 division has its principal place of business in the State of California, County of  
9 Orange.

10 2. Defendant Montante Plastic Surgery & Aesthetics, LLC (“Montante”)  
11 is, and at all times relevant to this action was, a Virginia limited liability company  
12 with its principal place of business in the City of Richmond, State of Virginia.

13 3. Defendant Steven Montante (“Steven”), an individual, is and at all  
14 times relevant to this action was, a resident of the City of Richmond, State of  
15 Virginia, and was an officer, director, shareholder, agent and/or owner of Defendant  
16 Montante.

17 4. Defendant Shelly Montante (“Shelly”), an individual, is and at all  
18 times relevant to this action was, a resident of the City of Richmond, State of  
19 Virginia, and was an officer, director, shareholder, agent and/or owner of Defendant  
20 Montante.

21 5. Plaintiff is informed and believes, and thereon alleges, that all  
22 Defendants, including any members or shareholders of any defendant entities, are  
23 all located outside of California.

24 6. Plaintiff is informed and believes, and thereon alleges, that each  
25 Defendant, directly or indirectly, or through agents or other persons, was engaged  
26 with some or all of the other Defendants in a joint enterprise for profit, and bore  
27 such other relationships to some or all of the other Defendants so as to be liable for  
28 their conduct with respect to the matters alleged below. Plaintiff is informed and

1 believes and thereon alleges that each Defendant acted pursuant to and within the  
2 scope of the relationships alleged above, that each Defendant knew or should have  
3 known about the foregoing, and that each Defendant authorized, ratified, adopted,  
4 approved, controlled, and aided and abetted the conduct of all other Defendants.

5 7. The obligations sued upon herein are commercial in nature and the  
6 Complaint herein is not subject to the provisions of California Civil Code section  
7 1801, *et seq.* (Unruh Retail Installment Sales Act), and/or California Civil Code  
8 section 2981, *et seq.* (Rees-Levering Motor Vehicle Sales and Finance Act).

9 8. Pursuant to the Equipment Financing Agreements and Guaranties  
10 described herein below, defendant Montante and defendants Steven and Shelly  
11 agreed that the documents would be governed by the laws of the State of California.  
12 In addition, the Equipment Financing Agreements provides, in pertinent part, as  
13 follows:

14 **General.** This Agreement will be governed and construed  
15 under the laws of the State of California without reference  
16 to its principle of conflicts of laws and is deemed to have  
17 been made and performed in Orange County, CA. You  
18 submit to the exclusive and mandatory jurisdiction of CA  
19 and agree that CA state courts and/or the United States  
District Court for the Central District of California, Santa  
Ana Division, will have exclusive and mandatory  
jurisdiction over any action or proceeding to enforce this  
Agreement or any action or proceeding arising out of this  
Agreement.

20 9. Jurisdiction. This Court has jurisdiction over the case pursuant to 28  
21 U.S.C. § 1332(a).

22 10. Venue. The venue is proper in this judicial district pursuant to 28  
23 U.S.C. § 1391(b)(2), and in the Southern Division pursuant to 28 U.S.C. § 84(c)(3).

24 **FIRST CAUSE OF ACTION**

25 **(Breach of Equipment Financing Agreement No. 1)**

26 **(Against Montante)**

27 11. Balboa alleges and incorporates by reference each and every allegation  
28 contained above, inclusive, as though each were fully set forth here.

1           12. Prior to March 2021, Balboa is informed and believes that Montante  
2 initiated and engaged with Invasic Inc. - FP, located at 17 Hughes Irvine, CA 92618  
3 (“Equipment Vendor No. 1”), in order to coordinate the acquisition and financing  
4 of certain equipment (hereinafter referred to as “Collateral No. 1”) for its business.  
5 Equipment Vendor No. 1 worked with Montante in the selection of Collateral No. 1  
6 and in coordinating its delivery.

7           13. Thereafter, Balboa is informed and believes, and therefore alleges, that  
8 Equipment Vendor No. 1 initiated and coordinated submission of Defendant’s  
9 electronic credit application to Balboa and other financial institutions. Upon  
10 review, Montante concluded that Balboa offered agreeable terms to finance  
11 Collateral No. 1 commensurate with its requirements. Thereafter, Equipment  
12 Vendor No. 1 accumulated and submitted to Balboa the requisite signatories,  
13 documentation, and financial information from Defendant to finance Collateral No.  
14 1 being supplied by Equipment Vendor No. 1.

15           14. On or about March 30, 2021, Montante executed a certain written  
16 Equipment Financing Agreement No. 355015-000 (“EFA No. 1”), under the terms  
17 of which Balboa loaned to Montante the principal sum of Seventy-Eight Thousand  
18 Four Hundred Forty Dollars and Zero Cents (\$78,440.00), in order to finance  
19 Collateral No. 1 for its business. EFA No. 1 required Montante to make six (6)  
20 monthly payments of \$99.00, and sixty (60) monthly payments of \$1,739.14,  
21 payable on the 29th day of each month, beginning May 29, 2021. A true and  
22 correct copy of EFA No. 1 is attached as **Exhibit A** and is incorporated here by  
23 reference.

24           15. The last payment received by Balboa was credited toward the monthly  
25 payment due for October 29, 2023. Therefore, on or about November 29, 2023,  
26 Montante breached EFA No. 1 by failing to make the monthly payment due on that  
27 date. Defendant Montante’s failure to make timely payments is a default under the  
28 terms of EFA No. 1.

1           16. In accordance with EFA No. 1, and as a proximate result of  
2 Montante's default thereunder, Balboa declared the entire balance of the payments  
3 under EFA No. 1 to be immediately due and payable to Balboa. Therefore, there  
4 became due the sum of \$60,869.90. This amount is exclusive of interest, attorneys'  
5 fees and costs, no portion of which has been paid by Montante.

6           17. Balboa has performed all of the terms, conditions, and covenants  
7 required to be performed by it under the terms of EFA No. 1, except as excused or  
8 prevented by the conduct of Montante.

9           18. In addition, the terms of EFA No. 1 provide that Montante is liable to  
10 Balboa for late charges on all payments not made in a timely manner. As of the  
11 date of the filing of Balboa's Complaint, late charges in the sum of \$313.05 are  
12 now due and owing.

13           19. As a proximate result of Montante's breach of EFA No. 1, Balboa has  
14 been damaged in the total sum of \$61,182.95, plus prejudgment interest from  
15 November 29, 2023, until the entry of judgment herein.

16           20. Further, under the terms of EFA No. 1, Montante promised to pay all  
17 costs, including reasonable attorneys' fees, incurred by Balboa in the enforcement  
18 of EFA No. 1. Therefore, Balboa requests the Court award Balboa its reasonable  
19 attorneys' fees and costs as against Montante.

20           21. EFA No. 1 also provides Balboa the remedy of possession of  
21 Collateral No. 1 and to obtain an order that Balboa may, in accordance with  
22 applicable state law, sell the remaining Collateral No. 1 and apply the net proceeds  
23 from the sale to the remaining loan balance. Alternatively, if possession cannot be  
24 had, Balboa is entitled to recover the value of Collateral No. 1.

**SECOND CAUSE OF ACTION**

**(Breach of Guaranty No. 1)**

**(Against Steven and Shelly)**

22. Balboa alleges and incorporates by reference each and every allegation contained above, inclusive, as though each were fully set forth here.

23. Concurrent with the execution of EFA No. 1 and in order to induce Balboa to enter into EFA No. 1 with Montante, Steven and Shelly guaranteed, in writing, the payment of the then existing and future indebtedness due and owing to Balboa under the terms of EFA No. 1. A true and correct copy of the written Personal Guaranty signed by Steven and Shelly (“Guaranty No. 1”) is attached as **Exhibit A (page 1)** and incorporated herein by reference.

24. Balboa has performed all the terms, conditions, and covenants required to be performed by Balboa under the terms of Guaranty No. 1, except as excused or prevented by the conduct of Steven and Shelly.

25. Following a default of Montante under the terms of EFA No. 1, Balboa demanded Steven and Shelly make the payments required under EFA No. 1. Steven and Shelly failed to meet Guaranty No. 1 obligations and make the payments required under EFA No. 1.

26. Pursuant to the terms of Guaranty No. 1, the sum of \$61,182.95, plus prejudgment interest from November 29, 2023, is due and payable to Balboa from Steven and Shelly. This Complaint, in addition to previous demands, shall constitute further demand upon Steven and Shelly to pay the entire indebtedness due and owing from Montante to Balboa under the terms of EFA No. 1.

27. Under the terms of the Guaranty, Steven and Shelly promised to pay all costs, including reasonable attorneys’ fees, incurred by Balboa in the enforcement of EFA No. 1 and Guaranty No. 1. Therefore, Balboa requests the Court award Balboa its reasonable attorneys’ fees and costs, as against Steven and Shelly.

**THIRD CAUSE OF ACTION**

**(Breach of Equipment Financing Agreement No. 2)**

**(Against Montante)**

28. Balboa alleges and incorporates by reference each and every allegation contained above, inclusive, as though each were fully set forth here.

29. Prior to March 2021, Balboa is informed and believes that Montante initiated and engaged with Cartessa Aesthetics, LLC-FP, located at 175 Broadhollow Road, Melville, NY 11747 (“Equipment Vendor No. 2”), in order to coordinate the acquisition and financing of certain equipment (hereinafter referred to as “Collateral No. 2”) for its business. Equipment Vendor No. 2 worked with Montante in the selection of Collateral No. 2 and in coordinating its delivery.

30. Thereafter, Balboa is informed and believes, and therefore alleges, that Equipment Vendor No. 2 initiated and coordinated submission of Defendant’s electronic credit application to Balboa and other financial institutions. Upon review, Montante concluded that Balboa offered agreeable terms to finance Collateral No. 2 commensurate with its requirements. Thereafter, Equipment Vendor No. 2 accumulated and submitted to Balboa the requisite signatories, documentation, and financial information from Defendant to finance Collateral No. 2 being supplied by Equipment Vendor No. 2.

31. On or about March 31, 2021, Montante executed a certain written Equipment Financing Agreement No. 355015-001 (“EFA No. 2”), under the terms of which Balboa loaned to Montante the principal sum of Sixty-Four Thousand Two Hundred Dollars and Zero Cents (\$64,200.00), in order to finance Collateral No. 2 for its business. EFA No. 2 required Montante to make six monthly payments of \$99.00, and sixty (60) monthly payments of \$1,421.22, payable on the 14th day of each month, beginning June 14, 2021. A true and correct copy of EFA No. 2 is attached as **Exhibit B** and is incorporated here by reference.



1           32. The last payment received by Balboa was credited toward the monthly  
2 payment due for November 14, 2023. Therefore, on or about December 14, 2023,  
3 Montante breached EFA No. 2 by failing to make the monthly payment due on that  
4 date. Defendant Montante's failure to make timely payments is a default under the  
5 terms of EFA No. 2.

6           33. In accordance with EFA No. 2, and as a proximate result of  
7 Montante's default thereunder, Balboa declared the entire balance of the payments  
8 under EFA No. 2 to be immediately due and payable to Balboa. Therefore, there  
9 became due the sum of \$49,742.70. This amount is exclusive of interest, attorneys'  
10 fees and costs, no portion of which has been paid by Montante.

11           34. Balboa has performed all of the terms, conditions, and covenants  
12 required to be performed by it under the terms of EFA No. 2, except as excused or  
13 prevented by the conduct of Montante.

14           35. In addition, the terms of EFA No. 2 provide that Montante is liable to  
15 Balboa for late charges on all payments not made in a timely manner. As of the  
16 date of the filing of Balboa's Complaint, late charges in the sum of \$255.82 are  
17 now due and owing.

18           36. As a proximate result of Montante's breach of EFA No. 2, Balboa has  
19 been damaged in the total sum of \$49,998.52, plus prejudgment interest from  
20 December 14, 2023, until the entry of judgment herein.

21           37. Further, under the terms of EFA No. 2, Montante promised to pay all  
22 costs, including reasonable attorneys' fees, incurred by Balboa in the enforcement  
23 of EFA No. 2. Therefore, Balboa requests the Court award Balboa its reasonable  
24 attorneys' fees and costs as against Montante.

25           38. EFA No. 2 also provides Balboa the remedy of possession of  
26 Collateral No. 2 and to obtain an order that Balboa may, in accordance with  
27 applicable state law, sell the remaining Collateral No. 2 and apply the net proceeds  
28



1 from the sale to the remaining loan balance. Alternatively, if possession cannot be  
2 had, Balboa is entitled to recover the value of Collateral No. 2.

3 **FOURTH CAUSE OF ACTION**

4 **(Breach of Guaranty No. 2)**

5 **(Against Steven and Shelly)**

6 39. Balboa alleges and incorporates by reference each and every allegation  
7 contained above, inclusive, as though each were fully set forth here.

8 40. Concurrent with the execution of EFA No. 2, and in order to induce  
9 Balboa to enter into EFA No. 2 with Montante, Steven and Shelly guaranteed, in  
10 writing, the payment of the then existing and future indebtedness due and owing to  
11 Balboa under the terms of EFA No. 2. A true and correct copy of the written  
12 Personal Guaranty signed by Steven and Shelly (“Guaranty No. 2”) is attached as  
13 **Exhibit B (page 1)** and incorporated herein by reference.

14 41. Balboa has performed all the terms, conditions, and covenants required  
15 to be performed by Balboa under the terms of Guaranty No. 2, except as excused or  
16 prevented by the conduct of Steven and Shelly.

17 42. Following a default of Montante under the terms of EFA No. 2, Balboa  
18 demanded Steven and Shelly make the payments required under EFA No. 2.  
19 Steven and Shelly failed to meet Guaranty No. 2 obligations and make the  
20 payments required under EFA No. 2.

21 43. Pursuant to the terms of Guaranty No. 2, the sum of \$49,998.52, plus  
22 prejudgment interest from December 14, 2023, is due and payable to Balboa from  
23 Steven and Shelly. This Complaint, in addition to previous demands, shall  
24 constitute further demand upon Steven and Shelly to pay the entire indebtedness  
25 due and owing from Montante to Balboa under the terms of EFA No. 2.

26 44. Under the terms of Guaranty No. 2, Steven and Shelly promised to pay  
27 all costs, including reasonable attorneys’ fees, incurred by Balboa in the  
28 enforcement of EFA No. 2 and Guaranty No. 2. Therefore, Balboa requests the

1 Court award Balboa its reasonable attorneys' fees and costs, as against Steven and  
2 Shelly.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff Balboa prays for judgment against Defendants, and  
5 each of them, as follows:

6 **On the First and Second Causes of Action:**

- 7 1. The principal sum \$61,182.95;
- 8 2. Prejudgment interest from November 29, 2023 to the date of entry of  
9 judgment;
- 10 3. Late charges and non-sufficient charges in an amount to be proven at  
11 trial;
- 12 4. An order to recover possession of Collateral No. 1, which is the  
13 subject of EFA No. 1, or if Collateral No. 1 cannot be delivered, for its reasonable  
14 value according to proof;
- 15 5. Reasonable attorneys' fees and costs;
- 16 6. Costs of suit as provided by law;

17 **On the Third and Fourth Causes of Action:**

- 18 1. The principal sum \$49,998.52;
- 19 2. Prejudgment interest from December 14, 2023 to the date of entry of  
20 judgment;
- 21 3. Late charges and non-sufficient charges in an amount to be proven at  
22 trial;
- 23 4. An order to recover possession of Collateral No. 2, which is the  
24 subject of EFA No. 2, or if Collateral No. 2 cannot be delivered, for its reasonable  
25 value according to proof;
- 26 5. Reasonable attorneys' fees and costs;

27 //

28 //

1           6.     Costs of suit as provided by law;  
2  
3

4     DATED: January 16, 2024

SALISIAN | LEE LLP

5  
6     By: 

Neal S. Salisian

Glenn R. Coffman

Jared T. Densen

8     Attorneys for Plaintiff

9     AMERIS BANK d/b/a BALBOA CAPITAL  
10    CORPORATION  
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